

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SOU W. HER,

Petitioner,

ORDER

v.

09-cv-0265-slc

ROBERT HUMPHREYS, Warden,
Racine Correctional Institution,

Respondent.

Sou W. Her has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to Rule 3 of the Rules Governing Section 2254 Cases, the petition must be accompanied by:

- (1) the five dollar (\$5) filing fee; OR
- (2) a motion for leave to proceed *in forma pauperis*, the affidavit required by 28 U.S.C. § 1915, and a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution.

Although petitioner has submitted a motion for leave to proceed *in forma pauperis*, he has not submitted a certificate from the warden showing the amount of money or securities that petitioner has in any account in the institution. The court needs this information before it can rule on petitioner's request to proceed *in forma pauperis*. Petitioner can satisfy this requirement by submitting a six-month trust account statement from the institution.

Once petitioner submits his trust fund account statement, this court will calculate petitioner's average monthly deposits and his average monthly balances for the six-month period

mentioned above. If 20% of the greater of these two figures is \$5 or more, he will not be eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Now that petitioner is aware of the formula this court uses in determining whether a prisoner is indigent for the purpose of paying a \$5 filing fee, he may be able to figure easily whether he qualifies. If he knows that he will not qualify for indigent status, he may elect to submit a check or money order made payable to the clerk of court in the amount of \$5 in lieu of the six-month statement requested above. In any event, petitioner should act quickly. If, by May 22, 2009, petitioner does not submit either the \$5 payment or a trust fund account statement for the last six months, his request for leave to proceed *in forma pauperis* will be denied and this action will be closed.

ORDER

Sou W. Her has until May 22, 2009 in which to submit either a six-month trust account statement from the institution or the \$5 filing fee. If he fails to submit the requested information by May 22, 2009, his request for leave to proceed *in forma pauperis* will be denied and this action will be closed.

Entered this 30th day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge